

APPENDIX A

Statutes Involved

The relevant portion of Section 216 of Part II of the Interstate Commerce Act, August 9, 1935, c. 498, 49 Stat. 558, 49 U.S.C.A. Sec. 316(e), (g) and (j) provides:

“(e) Any person, State board, organization, or body politic may make complaint in writing to the Commission that any such rate, fare, charge, classification, rule, regulation, or practice, in effect or proposed to be put into effect, is or will be in violation of this section or of section 317 of this title. Whenever, after hearing, the Commission shall be of the opinion that any individual or joint rate, fare, or charge, demanded, charged, or collected by any common carrier or carriers by motor vehicle or by any common carrier or carriers by railroad and/or express, and/or water for transportation in interstate or foreign commerce, or any classification, rule, regulation, or practice whatsoever of such carrier or carriers affecting such rate, fare, or charge or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory or unduly preferential or unduly prejudicial, it shall determine and prescribe the lawful rate, fare, or charge or the maximum or minimum, or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful classification, rule, regulation, or practice thereafter to be made effective.
* * *

“(g) Whenever there shall be filed with the Commission any schedule stating a new individual or joint rate, fare, charge, or classification for the transportation of passengers or property by a common carrier or carriers by motor vehicle, or by any such carrier or carriers in conjunction with a common carrier or carriers by railroad and/or express, and/or water in interstate or foreign commerce, or any rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Commission is hereby authorized and empowered upon complaint of any interested party or upon its own initiative at once and, if it so orders, without answer or other formal

pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such rule, regulation, or practice, and pending such hearing and the decision thereon the Commission by filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, or charge, or such rule, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the rate, fare, charge, classification, rule, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change of rate, fare or charge, or classification, rule, regulation or practice, shall go into effect at the end of such period. * * *

“(j) Nothing in this section shall be held to extinguish any remedy or right of action not inconsistent herewith.

The relevant portion of Section 217 of Part II of the Interstate Commerce Act, August 9, 1935, c. 498, 49 Stat. 560, 49 U.S.C.A. Sec. 317(a), (b), and (c) provides:

“(a) “Every common carrier by motor vehicle shall file with the Commission, and print, and keep open to public inspection, tariffs showing all the rates, fares, and charges for transportation, and all services in connection therewith, of passengers or property in interstate or foreign commerce between points on its own route and between points on its own route and points on the route of any other such carrier. * * *

“(b) “No common carrier by motor vehicle shall charge or demand or collect or receive a greater or less or different compensation for transportation or for any service in connection therewith between the points enumerated in such tariff than the rates, fares, and charges specified in the tariffs in effect at the

time; and no such carrier shall refund or remit in any manner or by any device, directly or indirectly, or through any agent or broker or otherwise, any portion of the rates, fares, or charges so specified, or extended to any person any privileges or facilities for transportation in interstate or foreign commerce except such as are specified in its tariffs. Provided, That the provisions of Sections 1(7) and 22 of this title shall apply to common carriers by motor vehicles subject to this chapter.

“(c) No change shall be made in any rate, fare, charge, or classification, or any rule, regulation, or practice affecting such rate, fare, charge, or classification, or the value of the service thereunder, specified in any effective tariff of a common carrier by motor vehicle, except after 30 days’ notice of the proposed change filed and posted in accordance with paragraph (a) of this section. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. The Commission may, in its discretion and for good cause shown, allow such change upon notice less than that herein specified or modify the requirements of this section with respect to posting and filing of tariffs either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

The relevant portion of Section 222 of Part II of the Interstate Commerce Act, August 9, 1935, c. 498, 49 Stat. 564, 49 U.S.C.A. Sec. 322(b) and (c), provides:

“(b) If any motor carrier or broker operates in violation of any provision of this chapter (except as to the reasonableness of rates, fares, or charges and the discriminatory character thereof), or any rule, regulation, requirement, or order thereunder, or of any term or condition of any certificate or permit, the Commission or its duly authorized agent may apply to the district court of the United States for any district where such motor carrier or broker operates, for the enforcement of such provision of this chapter, or of such rule, regulation, requirement, order, term, or condition; * * *

"(c) Any person, whether carrier, shipper, consignee, or broker, or any officer, employee, agent, or representative thereof, who . . . shall knowingly and willfully assist, suffer or permit any person or persons, natural or artificial, to obtain transportation of passengers or property subject to this chapter for less than the applicable rate, fare, or charge, . . . shall be deemed guilty of a misdemeanor and upon conviction thereof be fined not more than \$500 for the first offense and not more than \$2,000 for any subsequent offense."

The relevant portion of Section 204a of Part II of the Interstate Commerce Act, June 29, 1949, c. 272, 63 Stat. 280, 49 U.S.C.A. Sec. 304a(5), provides:

"For recovery of overcharges, action at law shall be begun against common carriers by motor vehicle subject to this chapter within two years from the time the cause of action accrues, and not after, subject to paragraph (3) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the two-year period of limitation said period shall be extended to include six months from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice."

"The term 'overcharges' as used in this section shall be deemed to mean charges for transportation services in excess of those applicable thereto under the tariffs lawfully on file with the Commission."

The relevant portion of Section 15 of Part I of the Interstate Commerce Act, as amended February 28, 1920, c. 91, 41 Stat. 486, 49 U.S.C.A. Sec. 15(7) provides:

"(7) Whenever there shall be filed with the Commission any schedule stating a new individual or joint rate, fare, or charge, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare, or charge, the Commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the in-

interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice; and pending such hearing and the decision thereon the Commission, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing or its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change of rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period; but in case of a proposed increased rate or charge for or in respect to the transportation of property, the Commission may by order require the interested carrier or carriers to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may be further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified. * * *

The revelant portion of Section 16 of Part I of the Interstate Commerce Act, as amended June 7, 1924, c. 325, 43 Stat. 633, September 18, 1940, c. 722, 54 Stat. 913, provides:

“All complaints against carriers subject to this chapter for the recovery of damages not based on overcharges shall be filed with the commission within two years from the time the cause of action accrues, and not after, subject to subdivision (d) of this paragraph.

"For recovery of overcharges action at law shall be begun or complaint filed with the commission against carriers subject to this chapter within two years from the time the cause of action accrues, and not after, subject to subdivision (d) of this paragraph, except that if claim for the overcharge has been presented in writing to the carrier within the two-year period of limitation said period shall be extended to include six months from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice."

"The term 'overcharges' as used in this section shall be deemed to mean charges for transportation services in excess of those applicable thereto under the tariffs lawfully on file with the commission."

Section 322 of the Transportation Act of 1940, September 18, 1940, c. 722, 54 Stat. 955, 49 U.S.C.A. Sec. 66, provides:

"Payment for transportation of the United States mail and of persons or property for or on behalf of the United States by any common carrier subject to the Interstate Commerce Act, as amended, or the Civil Aeronautics Act of 1938, shall be made upon presentation of bills therefor, prior to audit or settlement by the General Accounting Office, but the right is reserved to the United States Government to deduct the amount of any overpayment to any such carrier from any amount subsequently found to be due such carrier."

APPENDIX B**Order**

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D. C., on the 20th day of July, A. D. 1953.

INVESTIGATION AND SUSPENSION DOCKET**NO. M-3929****SURCHARGES—NEW YORK STATE****NO. MC-C-1339****SURCHARGES—NEW YORK STATE**

It appearing, That in Investigation and Suspension Docket No. M-3929, by orders entered October 5, 1951, and later, the Commission entered upon a hearing concerning the lawfulness of the rates, charges, regulations and practices stated in the schedules described in said orders, and suspended the operation of such schedules to May 8, 1952, when they became effective;

It further appearing, That in No. MC-C-1339, by order dated October 26, 1951, the Commission instituted an investigation into and concerning the reasonableness and lawfulness otherwise of the surcharges described in such order;

And it further appearing, That a full investigation of the matters and things involved in these proceedings has been made, and that the Commission, on the date hereof, has made and filed a report herein containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That the respondents in I. & S. No. M-3929 be, and they are hereby, notified and required to cancel the proposed schedules on or before September 4, 1953, upon not less than one day's notice to this Commission and to the general public by filing and posting in the manner

prescribed by the Commission under section 217 of the Interstate Commerce Act.

It is further ordered, That the respondent in No. MC-C-1339, Mathews Trucking Corporation, be, and it is hereby, notified and required to cancel the surcharges under investigation, on or before September 4, 1953, upon not less than one day's notice to this Commission and to the general public by filing and posting in the manner prescribed by the Commission under section 217 of the Interstate Commerce Act.

And it is further ordered, That these proceedings be, and they are hereby, discontinued.

By the Commission.

/s/ GEORGE W. LAIRD
Acting Secretary

APPENDIX C**Order**

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D. C., on the 21st day of August, A. D., 1953.

INVESTIGATION AND SUSPENSION DOCKET**NO. M-3929****SURCHARGES—NEW YORK STATE****NO. MC-C-1339****SURCHARGES—NEW YORK STATE**

Upon further consideration of the record in the above-entitled proceedings and upon consideration of petitions by Motor Carriers Tariff Bureau, Inc., Central States Motor Freight Bureau, Inc., and Middle Atlantic Conference for postponement of the effective date of the Commission's order of July 20, 1953, and of a reply to the petitions by The Port of New York Authority, and good cause appearing therefor:

It is ordered, That the said order of July 20, 1953, which requires the cancellation of the surcharges under investigation, including the proposed schedules, on or before September 4, 1953, upon not less than one day's notice, be, and it is hereby, modified so as to postpone the effective date thereof to October 15, 1953, upon one day's notice;

And it is further ordered, That the said petitions, in all other respects, be, and they are hereby, denied for the reason that petitioners have not set forth reasons sufficient to warrant postponement of the effective date beyond October 15, 1953.

By the Commission.

/s/ GEORGE W. LAIRD

Acting Secretary

(SEAL)